

1 KEKER & VAN NEST, LLP
 2 MICHAEL H. PAGE - #154913
 3 ASHOK RAMANI - #200020
 4 KHARI J. TILLERY - #215669
 5 710 Sansome Street
 6 San Francisco, CA 94111-1704
 7 Telephone: (415) 391-5400
 8 Facsimile: (415) 397-7188

9
 10 Attorneys for Third-Party Google, Inc.
 11
 12

13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

1
 2 VISTO CORPORATION,
 3
 4 Plaintiff,
 5
 6 v.
 7
 8 RESEARCH IN MOTION LIMITED, et al.,
 9
 10 Defendant.

11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
 Misc. Civil Case No. 3:08-mc-80031-JSW
 (JL)

1
 2
 3
 4
 5 Court of Original Jurisdiction
 6 U.S. Dist. Ct.
 7 E. Dist. Texas
 8 Marshall Division
 9 Case No. 2-06-CV-181-TJW

10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28
**DECLARATION OF EDMOND CHOI IN
 SUPPORT OF THIRD PARTY
 GOOGLE'S REPLY IN SUPPORT OF
 MOTION TO QUASH SUBPOENA OR, IN
 THE ALTERNATIVE, FOR
 PROTECTIVE ORDER**

1
 2
 3
 4
 5 Date: May 7, 2008
 6 Time: 9:30 a.m.
 7 Judge: Magistrate Judge Larson

1 I, Edmond Choi, declare and state as follows:

2 1. My name is Edmond Choi and I am currently the Lead, Legal Investigations
3 Support for Google, Inc. Except where otherwise noted, I make the following statements of my
4 personal knowledge, have knowledge of the facts set forth herein and, if called as a witness,
5 could and would testify competently thereto.

6 2. Gmail users can access Gmail accounts on their BlackBerry devices through
7 IMAP / POP industry standard email retrieval protocols, an XHTML interface, and a Java client.

8 3. I am informed and believe that the engineering effort required to determine the
9 number of unique Gmail users that have accessed their Gmail accounts via BlackBerry enabled
10 devices would likely take more than three weeks, assuming that a user is anyone who has
11 accessed their Gmail account via any of the above-described methods, at any point in time since
12 October 1, 2005. I am further informed and believe that just some of the engineering issues that
13 would be involved in attempting to discern the requested information would be: (1) sourcing and
14 retrieval of logs, (2) availability of logs, (3) development, testing and implementation of
15 algorithms to count the number of users, which would have to address the potential for
16 double/triple counting of users based on the multiple access methods, and (4) significant time to
17 process over two years of logs.

18 4. Only recently did Google begin asking Gmail users to provide their country of
19 residence when signing up for a Gmail account. Prior to that, Google did not solicit that
20 information about Gmail account holders. Even today, Google does not verify the accuracy of
21 the self-identification provided.

22 5. Google also does not track whether a BlackBerry enabled device accessing a
23 Gmail account is in the United States. Further, no Gmail user is consistently tied to a server in a
24 particular country. Thus, a Gmail user in the United States is not necessarily being served by a
25 server in the United States.

26
27 I declare under penalty of perjury under the laws of the State of California that the
28 foregoing is true and correct, and that this declaration was executed on April 23, 2008, at

1 Mountain View, California.

2

3 /s/Edmond Choi

4 EDMOND CHOI

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28